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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/607,536	06/29/2000	Earl A. Hubbell	AFFYP007X1C1	1335
26541	7590	09/30/2004	EXAMINER	
RITTER, LANG & KAPLAN 12930 SARATOGA AE. SUITE D1 SARATOGA, CA 95070			ART UNIT	PAPER NUMBER

DATE MAILED: 09/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER
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ART UNIT
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PAPER
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20040928

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**Commissioner for Patents**

Newly submitted claims 27-32 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The new claims are directed to chip design files while the previous claims were directed towards substrates with polymeras attached to them. These are entirely different inventions with no feature in common. They are structurally and functionally different. The chip design file is some sort of computer code while the substrate is a physical device with nucleic acids attached.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 27-32 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

The amendment filed on August 16, 2004 canceling all claims drawn to the elected invention and presenting only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03). The remaining claims are not readable on the elected invention for the reasons given above.

Since the above-mentioned amendment appears to be a *bona fide* attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

Jeffrey Fredman  
Primary Examiner  
Art Unit 1637

9/28/04